

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
DAVENPORT DIVISION

Dora Brubaker et al.,

Plaintiffs,

vs.

No. 3-08-cv-113

Deere & Company, Plan Administrator  
and Named Fiduciary of the John Deere  
Health Benefit Plan for Salaried  
Employees, et al.,

Order

Defendants.


The court denies plaintiffs' resisted motion to strike late-filed discovery materials. With a bench trial scheduled to begin on Monday, September 21, the court has expedited ruling on the motion filed on September 10, resisted in writing on September 16, and orally presented on September 11.

The court denies the motion to strike, but without prejudice to plaintiffs' right to contend during trial that defendants have provided a wholly inadequate explanation why the documents were disclosed so late, after discovery had been completed and closed. The court finds defendants' explanation to date has been substantially weak but not frivolous or unbelievable.

Grounds for the motion to strike may ultimately be sufficient to give the documents no weight as trial exhibits and may even allow reopening of discovery, if requested and justified.

IT IS SO ORDERED.

Dated this 18th day of September, 2009.

  
CHARLES R. WOLLE, JUDGE  
U.S. DISTRICT COURT

